

## General Assembly

## Raised Bill No. 6378

January Session, 2013

LCO No. 2857



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by: (INS)

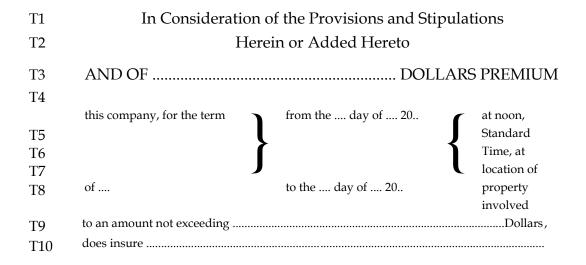
## AN ACT CONCERNING CHANGES TO PROPERTY AND CASUALTY INSURANCE AND RELATED STATUTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. Section 38a-8 of the general statutes is amended by adding
- 2 subsection (h) as follows (*Effective October 1, 2013*):
- 3 (NEW) (h) (1) Not later than January 1, 2014, the commissioner shall
- 4 post on the Insurance Department's Internet web site a list of the name
- 5 and contact information of each insurance company licensed to do
- 6 business in this state for, and categorized by, the following lines of
- 7 insurance:
- 8 (A) Private passenger motor vehicle, as defined in section 38a-363;
- 9 (B) Homeowners; and
- 10 (C) Commercial property; and
- 11 (2) Not later than January 1, 2014, the commissioner shall post on
- 12 the Insurance Department's Internet web site (A) a statement that an

LCO No. 2857 **1** of 16

- insured has the right to hire a public adjuster to act on such insured's behalf for loss or damage by a covered peril, and (B) a list of the name and contact information of each public adjuster licensed as such in this state.
- 17 (3) The commissioner shall update such lists at least annually.
- Sec. 2. Section 38a-307 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):
- Except as provided in section 38a-307a, the standard form of fire insurance policy of the state of Connecticut, with permission to substitute for the word "Company" a more accurate descriptive term of the type of insurer, shall be as follows:
- [Space for insertion of name of company or companies issuing the policy and other matter permitted to be stated at the head of the policy.]
- [Space for listing amounts of insurance, rates and premiums for the basic coverages insured under the standard form of policy and for additional coverages or perils insured under endorsements attached.]



LCO No. 2857 **2** of 16

30 and legal representatives, to the extent of the actual cash value of 31 the property at the time of loss, but not exceeding the amount which it 32 would cost to repair or replace the property with material of like kind 33 and quality within a reasonable time after such loss, without allowance 34 for any increased cost of repair or reconstruction by reason of any 35 ordinance or law regulating construction or repair, and without 36 compensation for loss resulting from interruption of business or 37 manufacture, nor in any event for more than the interest of the 38 insured, against all DIRECT LOSS BY FIRE, LIGHTNING AND BY 39 REMOVAL FROM PREMISES ENDANGERED BY THE PERILS 40 INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER 41 PROVIDED, to the property described hereinafter while located or 42 contained as described in this policy, or pro rata for five days at each 43 proper place to which any of the property shall necessarily be removed 44 for preservation from the perils insured against in this policy, but not 45 elsewhere. The actual cash value at the time of loss for a building 46 described herein shall be the amount which it would cost to repair or 47 replace such building with material of like kind and quality, minus 48 reasonable depreciation. As used herein, "depreciation" means a 49 decrease in value of real property over a period of time due to wear 50 and tear.

Assignment of this policy shall not be valid except with the written consent of this Company.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such other provisions, stipulations and agreements as may be added hereto, as provided in this policy.

In Witness Whereof, this Company has executed and attested these presents.

59 .... (Secretary).

51

52

53

54

55

56

60 .... (President).

LCO No. 2857 3 of 16

Concealment, fraud. This entire policy shall be void if, whether before or after a loss, the insured has wilfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.

Uninsurable and excepted property. This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion or manuscripts.

Perils not included. This Company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly, by: (a) Enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not originate from any of the perils excluded by this policy; (i) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises; (j) nor shall this Company be liable for loss by theft.

Other Insurance. Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto.

Conditions suspending or restricting insurance. Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring (a) while the hazard is increased by any means within the control or knowledge of the insured; or (b) while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; or (c)

LCO No. 2857 **4** of 16

as a result of explosion or riot, unless fire ensue, and in that event forloss by fire only.

Other perils or subjects. Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

Added provisions. The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

Waiver provisions. No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

Cancellation of policy. This policy shall be cancelled at any time at the request of the insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be cancelled at any time by this Company by giving to the insured and any third party designated pursuant to section 38a-323a, a thirty days' written notice of cancellation accompanied by the reason therefor with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand. Where cancellation is for nonpayment of premium at least ten days' written notice of cancellation accompanied by the reason therefor shall be given.

LCO No. 2857 5 of 16

Mortgagee interests and obligations. If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be cancelled by giving to such mortgagee a ten days' written notice of cancellation.

If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty (60) days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this Company shall claim that no liability existed as the mortgager or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all the mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing.

Pro rata liability. This Company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not.

Requirements in case loss occurs. The insured shall give immediate written notice to this Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claims; AND WITHIN SIXTY DAYS AFTER THE LOSS, UNLESS SUCH TIME IS EXTENDED IN WRITING BY THIS COMPANY, THE INSURED SHALL RENDER TO THIS COMPANY A PROOF OF LOSS, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: The time and origin of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all

LCO No. 2857 6 of 16

encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and, if required, verified plans and specification of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

Appraisal <u>or arbitration procedure</u>. In case the insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. [The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or this Company, such umpire shall be selected by a judge of a court of record in this state in which the property covered is located.] In lieu of such procedure, the insured may make a written demand of this Company and the Insurance Department for an arbitration, if applicable, by the Insurance Department. The appraisers shall [then] appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall present to the insured, for the insured's acceptance or declination in full, the appraisal of this

LCO No. 2857 **7** of 16

Company's appraiser. The insured's acceptance or declination shall be in writing. If the insured declines the appraisal of this Company's appraiser, the appraisers shall select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or this Company, such umpire shall be selected by a judge of a court of record in this state in which the property covered is located. The appraisers shall then submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

Company's options. It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within thirty days after the receipt of the proof of loss herein required.

Abandonment. There can be no abandonment to this Company of any property.

When loss payable. The amount of loss for which this Company may be liable shall be payable thirty days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss is made either by agreement between the insured and this Company expressed in writing or by the filing with this Company of an award as herein provided. This Company and the insured may agree in writing to a partial payment of the amount of loss as an advance payment. Any advance payment shall be credited against the total amount of loss due to the insured. An advance payment shall not affect the requirement of this Company to pay the total amount of loss not later than thirty days after proof of loss.

LCO No. 2857 8 of 16

Suit. No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within eighteen months next after inception of the loss.

223

224225

229

230

231

232

233

234

235

236

237

238

239

240

241

242

243

244

245

246

247

248

- Subrogation. This Company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company.
- Sec. 3. Subsection (b) of section 38a-9 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):
  - (b) (1) (A) The Division of Consumer Affairs shall provide an independent arbitration procedure for the settlement of disputes between claimants and insurance companies concerning automobile physical damage and automobile property damage liability claims in which liability and coverage are not in dispute. Such procedure shall apply only to disputes involving private passenger motor vehicles as defined in subsection (e) of section 38a-363. Any company licensed to write private passenger automobile insurance, including collision, comprehensive and theft, in this state shall participate in the arbitration procedure. The commissioner shall appoint administrator for such procedure. Only those disputes in which attempts at mediation by the Division of Consumer Affairs have failed shall be accepted as arbitrable. The referral of the complaint to arbitration shall be made by the Insurance Department examiner who investigated the complaint. Each party to the dispute shall pay a filing fee of twenty dollars. The insurance company shall pay the [consumer] <u>claimant</u> the undisputed amount of the claim upon written notification from the department that the complaint has been referred to arbitration. Such payment shall not affect any right of the [consumer] claimant to pursue the disputed amount of the claim.
- 249 (B) The Division of Consumer Affairs shall provide an independent

LCO No. 2857 **9** of 16

arbitration procedure for the settlement of disputes between claimants and insurance companies concerning the actual cash value or the amount of loss for residential real property in which liability and coverage are not in dispute. Such procedure shall apply only to disputes involving homeowners insurance. Any company licensed to write homeowners insurance in this state shall participate in the The commissioner shall appoint an procedure. arbitration administrator for such procedure. Only those disputes in which awards have not been determined by an umpire shall be accepted as arbitrable. The referral of the dispute to arbitration shall be made by the department upon receiving a written demand for arbitration from a claimant. Each party to the dispute shall pay a filing fee of twenty dollars. The insurance company shall pay the claimant the undisputed amount of the claim upon written notification from the department that the complaint has been referred to arbitration. Such payment shall not affect any right of the claimant to pursue the disputed amount of the claim.

250

251

252253

254

255

256

257

258

259

260

261

262

263

264

265

266

267

268

269

270

271

272

273

274

275

276

277

278

279

280

281

282

(2) The commissioner shall prepare a list of at least ten persons, who have not been employed by the department or an insurance company during the preceding twelve months, to serve as arbitrators in the settlement of such disputes. The arbitrators shall be members of any dispute resolution organization approved by the commissioner. One arbitrator shall be appointed to hear and decide each complaint. Appointment shall be based solely on the order of the list. If an arbitrator is unable to serve on a given day, or if either party objects to the arbitrator, then the next arbitrator on the list shall be selected. The department shall schedule arbitration hearings as often, and in such locations, as it deems necessary. Parties to the dispute shall be provided written notice of the hearing at least ten days prior to the hearing date. The commissioner may issue subpoenas on behalf of the arbitrator to compel the attendance of witnesses and the production of documents, papers and records relevant to the dispute. Decisions shall be made on the basis of the evidence presented at the arbitration

LCO No. 2857 10 of 16

hearing. Where the arbitrator believes that technical expertise is necessary to decide a case, such arbitrator may consult with an independent expert recommended by the commissioner. The arbitrator and any independent technical expert shall be paid by the department on a per dispute basis as established by the commissioner. The arbitrator, as expeditiously as possible but not later than fifteen days after the arbitration hearing, shall render a written decision based on the information gathered and disclose the findings and the reasons to the parties involved. The arbitrator shall award filing fees to the prevailing party. If the decision favors the [consumer] claimant the decision shall provide specific and appropriate remedies including interest at the rate of fifteen per cent per year on the arbitration award concerning the disputed amount of the claim, retroactive to the date of payment for the undisputed amount of the claim. The decision [may include costs for loss of use and storage of the motor vehicle and] shall specify a date for performance and completion of all awarded remedies, and for a dispute concerning automobile physical damage and automobile property damage, may include costs for loss of use and storage of the motor vehicle. Notwithstanding any provision of the general statutes or any regulation, the Insurance Department shall not amend, reverse, rescind, or revoke any decision or action of any arbitrator. The department shall contact the [consumer] claimant not later than ten business days after the date for performance, to determine whether performance has occurred. Either party may make application to the superior court for the judicial district in which one of the parties resides or, when the court is not in session, any judge thereof for an order confirming, vacating, modifying or correcting any award, in accordance with the provisions of sections 52-417, 52-418, 52-419 and 52-420. If it is determined by the court that either party's position after review has been improved by at least ten per cent over that party's position after arbitration, the court may grant to that party its costs and reasonable attorney's fees. No evidence, testimony, findings, or decision from the department arbitration procedure shall be admissible in any civil proceeding, except judicial review of the

283

284

285

286

287

288

289

290

291

292

293

294

295

296

297

298

299

300

301

302

303

304

305

306

307

308

309

310

311

312

313

314

315

316

LCO No. 2857 11 of 16

- 317 arbitrator's decision as contemplated by this subsection.
- 318 (3) The department shall maintain records of each dispute,
- 319 including names of parties to the arbitration, the decision of the
- arbitrator, compliance, the appeal, if any, and the decision of the court.
- 321 The department shall annually compile such statistics and send a copy
- 322 to the committee of the General Assembly having cognizance of
- 323 matters relating to insurance. The report shall be considered a public
- 324 document.
- Sec. 4. Section 38a-313a of the general statutes is repealed and the
- 326 following is substituted in lieu thereof (*Effective October 1, 2013*):
- 327 (a) Prior to commencing any repair, remediation or mitigation
- pursuant to a loss occurring on or after [July 1, 2012] October 1, 2013,
- 329 and covered under a personal risk insurance policy, as defined in
- 330 section 38a-663, or a commercial risk policy, as defined in section 38a-
- 331 663, the person who will perform the repair, remediation or mitigation
- shall provide an insured with a written notice that indicates the scope
- of the work to be completed and the estimated total price. Such notice
- 334 shall not be required for (1) any repair of an automobile that is subject
- to this chapter, or (2) any repair that is subject to chapter 400.
- (b) If the person performing the repair, remediation or mitigation
- fails to provide the written notice in accordance with subsection (a) of
- this section to an insured, any contract between such person and such
- insured for such repair, remediation or mitigation shall be void.
- 340 (c) No insurer shall authorize a direct payment to a person
- 341 performing such repair or remediation unless and until such insurer
- 342 <u>has confirmed with the insured that the written notice required under</u>
- 343 <u>subsection (a) of this section has been provided to the insured.</u>
- [(c)] (d) As used in this section, "remediation" includes, but is not
- 345 limited to, cleaning services.

LCO No. 2857 12 of 16

- 346 Sec. 5. (NEW) (Effective October 1, 2013) No insurer shall authorize a 347 direct payment for a covered loss occurring on or after October 1, 2013, 348 to a contractor, as defined in section 20-419 of the general statutes, 349 unless and until such insurer has confirmed with the insured that the 350 home improvement contract required under section 20-429 of the 351 general statutes, as amended by this act, has been provided to the
- 353 Sec. 6. Subsection (c) of section 20-429 of the general statutes is 354 repealed and the following is substituted in lieu thereof (Effective 355 October 1, 2013):

352

365

366

368

insured.

- 356 (c) The contractor shall provide and deliver to the owner, without 357 charge, a completed copy of the home improvement contract at the 358 time such contract is executed. The provisions of section 5 of this act 359 shall also apply to the provision and delivery of such contract to the 360 owner.
- 361 Sec. 7. Section 38a-316a of the general statutes is repealed and the 362 following is substituted in lieu thereof (*Effective October 1, 2013*):
- 363 [(a) No insurer that delivers, issues for delivery, renews, amends or 364 endorses a homeowners insurance policy in this state shall refuse to renew or issue such a policy solely on the basis that the insured or prospective insured has failed to install permanent storm shutters on 367 his or her residential dwelling as a means of mitigating loss from hurricanes or other severe storms.]
- 369 [(b) (1)] (a) For a [(A)] (1) personal risk insurance policy, as defined 370 in section 38a-663, other than a private passenger nonfleet automobile 371 insurance policy, [(B)] (2) condominium association master policy 372 under section 47-83, or [(C)] (3) unit owners' association property 373 insurance policy under section 47-255, issued or renewed on or after 374 October 1, 2012, an insurer may impose a hurricane deductible in such policy in lieu of an overall policy deductible during the period 375 376 commencing with the issuance of a hurricane warning by the National

LCO No. 2857 **13** of 16

- Hurricane Center of the National Weather Service in any part of the state if such hurricane results in a maximum sustained surface wind of seventy-four miles per hour or more for any part of this state.
- 380 [(2)] (b) Such imposition shall be applied during the period [(A)] (1) 381 commencing not earlier than the National Weather Service National 382 Hurricane Center's issuance of a hurricane warning for any part of this 383 state, and [(B)] (2) ending twenty-four hours after said National 384 Hurricane Center's termination of the last hurricane warning for any 385 part of this state or twenty-four hours after said National Hurricane 386 Center's last downgrade of the hurricane from hurricane status for any 387 part of this state, whichever is earlier.

388

389

390

391

392

400

401

402

403

404

405

406

- [(3)] (c) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of [subdivision (1) of this subsection] subsection (a) of this section and the most current guidelines and bulletins issued by the Insurance Department and in effect that pertain to hurricane deductibles.
- Sec. 8. Section 38a-316b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):
- Each insurer that delivers, issues for delivery, renews, amends or endorses in this state a homeowners insurance policy for a residential dwelling shall: [offer]
- (1) Upon request by a prospective insured, offer to such prospective
  insured a premium quote for homeowners insurance; and
  - (2) Offer a premium discount on any such policy to any homeowner who submits to such insurer proof of installation of [permanent] storm shutters or impact-resistant glass on his or her dwelling as a means of mitigating loss from hurricanes or other severe storms. Such discount shall be based on sound actuarial principles and shall be applicable to premium charges for any such policy delivered, issued for delivery, renewed, amended or endorsed on or after [January 1, 2008] October 1,

LCO No. 2857 14 of 16

- 407 2013.
- Sec. 9. Subsection (a) of section 38a-689 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective*
- 410 *October* 1, 2013):
- 411 (a) Each insurance company [which] that issues homeowners 412 insurance policies in this state shall file with the Insurance 413 Commissioner the rules and regulations, or any modifications of such 414 rules and regulations, used by such company to [determine whether or 415 not to] underwrite such policies.
- Sec. 10. Section 38a-724 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):
- 418 (a) The use of an employment contract between a public adjuster 419 and the insured shall be mandatory. Such contract shall contain a 420 provision specifying that the insured may cancel the contract, 421 provided such insured notifies the public adjuster at such public 422 adjuster's main office or branch office at the address shown in the 423 contract, by certified mail, return receipt requested, posted not later 424 than midnight of the [second] fourth calendar day after the day on 425 which the insured signs the contract, except that if the signing is on a 426 Friday, Saturday or Sunday, the cancellation shall be posted not later 427 than midnight of the [Tuesday] Thursday immediately following, and 428 thereafter the contract shall be void ab initio.
- (b) No public adjuster shall solicit an insured between the hours of eight o'clock p.m. and eight o'clock a.m.

This act shall take effect as follows and shall amend the following			
sections:			
Section 1	October 1, 2013	38a-8	
Sec. 2	October 1, 2013	38a-307	
Sec. 3	October 1, 2013	38a-9(b)	
Sec. 4	October 1, 2013	38a-313a	

LCO No. 2857 15 of 16

Sec. 5	October 1, 2013	New section
Sec. 6	October 1, 2013	20-429(c)
Sec. 7	October 1, 2013	38a-316a
Sec. 8	October 1, 2013	38a-316b
Sec. 9	October 1, 2013	38a-689(a)
Sec. 10	October 1, 2013	38a-724

## Statement of Purpose:

To make changes to property and casualty insurance and related statutes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

LCO No. 2857 **16** of 16